

REMARKS

Reconsideration of the present application, as amended, is respectfully requested. Claim 40 has been amended. No claims have been added or canceled. As such, claims 40-49 remain pending in the present application.

Claims 40-49 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,592,365 to Schwartzman ("Schwartzman"). Claim 40 recites, in part, the features of "a central open discharge region adapted for the free flowing pouring discharge of said select contents," "a substantially planar top lid surface connecting said discharge portion to said cylindrical lid portion," and "a bottom portion adapted to hold said select contents and sealing said select contents therein."

In contrast, Schwartzman teaches a check valve (18) for controlling fluid flow through the opening. *See* Schwartzman, col. 2, lines 2-20. The check valve prevents a user from pouring out the contents. Instead, the contents must be squeezed out. The check valve of Schwartzman is not analogous to an open discharge region adapted for the free flowing pouring discharge of select contents as recited in the pending claims.

Furthermore, Schwartzman teaches a cap (38 and 138) that is funnel or conically-shaped. *See* Schwartzman, Figures 1 and 3. The conically-shaped cap of Schwartzman is not analogous to the substantially planar top lid surface of the presently claimed invention. In addition, Schwartzman does not teach a bottom portion for holding the select contents. The bottom portion of Schwartzman controls the amount of pressure within the container to allow squeezing of the contents. However, the contents of Schwartzman are placed in a bag (48) and the container side walls and bottom do not hold the contents directly thereagainst as now recited in pending claim 40. The structure and function of the Schwartzman structure is very dissimilar to the structure and function of the present invention as now clearly claimed with a high degree of specificity. Applicants respectfully submit that claim 40 thus distinguishes over Schwartzman and request that the §102 rejection of claim 40 be withdrawn.

Claims 41-49 are directly dependent from claim 40 and should distinguish over Schwartzman for at least the same reasons as stated above. Applicants respectfully request that the §102 rejection of claims 41-49 be withdrawn.

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

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Respectfully submitted,

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